

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

NORMAN GRAY,

Petitioner,

Case Number 03-CV-71658

v.

HON. AVERN COHN

RAYMOND BOOKER,

Respondent.

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**ORDER**

**(1) LIFTING THE STAY OF PROCEEDINGS,**

**(2) AMENDING THE PETITION,**

**(3) AMENDING THE CAPTION,**

**(4) ORDERING THAT THE PETITION AND THE AMENDED PETITION BE SERVED  
UPON THE RESPONDENT AND THE MICHIGAN ATTORNEY GENERAL**

**AND**

**(5) DIRECTING RESPONDENT TO FILE AN ANSWER AND THE RULE 5  
MATERIALS IN THIS CASE**

I.

In 2003, Norman Gray, ("Petitioner"), confined at the Ryan Correctional Facility in Detroit, Michigan, filed a *pro se* petition for writ of habeas corpus under 28 U.S.C. § 2254, in which he challenged his conviction for armed robbery and being an habitual offender. Petitioner also filed a motion to hold the petition in abeyance while he returned to the state courts to exhaust additional claims. On October 25, 2004, the Court entered an opinion and order granting petitioner's motion to hold his habeas petition in abeyance to permit petitioner to return to the state courts to exhaust additional claims that he had failed to raise in the state courts prior to filing his habeas petition. The Court also administratively closed the case. Doc. 23.

Petitioner then filed a "Petition adding Issues for Writ of Habeas Corpus." Doc. 24. A review of the paper shows that Petitioner is really asking the Court to lift the stay and amend the petition to add additional claims. For the reasons that follow, the stay will be lifted and the petition will be amended. The Court will also amend the caption to reflect the name of Petitioner's current warden, Raymond Booker.

II.

Federal courts have the power to order that a habeas petition be reinstated upon timely request by a habeas petitioner, following the exhaustion of state court remedies. *See e.g. Rodriguez v. Jones*, 625 F. Supp. 2d 552, 559 (E.D. Mich. 2009). Because Petitioner is now alleging that his claims have been exhausted with the state courts, the petition is now ripe for consideration. Accordingly, the stay will be lifted.

The Court will also allow petitioner to amend the petition to include the exhausted claims. There is no indication that allowing the amendment would cause any delay to this Court nor is there any evidence of bad faith on petitioner's part in bringing the motion to amend or prejudice to respondent if the motion is granted. *See Fed. R. Civ. P. 15.*

The case caption should also be amended to reflect that the proper Respondent in this case is now Raymond Booker, the warden of Ryan Correctional Facility in Detroit, Michigan, where petitioner is currently incarcerated. *See Edwards Johns*, 450 F. Supp. 2d 755, 757 (E.D. Mich. 2006); *See also* Rule 2(a), 28 foll. U.S.C. § 2254.

Finally, the Clerk of the Court shall a copy of the original petition for writ of habeas corpus and the amended habeas petition and a copy of this Order on Respondent and on the Attorney General for the State of Michigan by first class mail as

provided in Rule 4 of the Rules Governing § 2254 Cases, Rule 4. Respondent will also be directed to file a response to the petition for writ of habeas corpus and the amended habeas petition with all of the Rule 5 materials.

III.

For the reasons stated above, the stay is LIFTED. The petition is AMENDED to include the exhausted claims. The Clerk of the Court shall REOPEN the case.

The caption of the case is AMENDED to reflect that Raymond Booker is the proper respondent in this case.

The Clerk of the Court shall serve a copy of the petition for writ of habeas corpus (Doc. 3), a copy of the amended petition for writ of habeas corpus (Doc. 24), and a copy of this order on Respondent and the Attorney General by first class mail.

Respondent shall file an answer and produce the entire state court record within **ninety (90) days** of the date of this order or show cause why they are unable to comply with the order.

Petitioner shall have **forty five (45) days** from the date that he receives the answer to file a reply.

**SO ORDERED.**

Dated: August 16, 2011

s/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to Norman Gray, 108144, Ryan Correctional Facility, 17600 Ryan Road, Detroit, MI 48212 and the attorneys of record on this date, August 16, 2011, by electronic and/or ordinary mail.

s/Julie Owens  
Case Manager, (313) 234-5160